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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,779	09/12/2005	Ralf Steuerwald	STEU3001/FJD	2852
23364 7590 02/21/2007 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			EXAMINER VU, MINDY D	
			ART UNIT 2884	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.		Applicant(s)	
	10/517,779		STEUERWALD ET AL.	
	Examiner		Art Unit	
	Mindy Vu		2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 18, 20, 21 and 25-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/28/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

This Office Action is in response to Applicant's application filed September 12, 2005.

National Stage Application

The Examiner has considered the international preliminary examination report (IPER).

Information Disclosure Statement

The information disclosure statement filed December 28, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox et al. (US 5,745,243, hereafter Wilcox) in view of Gersh et al. (US 4,627,284, hereafter Gersh).

With respect to independent Claim 15, Wilcox discloses a device for photometric measurement of the concentration of a chemical substance in a solution (Abstract), comprising: a lamp 14, which emits electromagnetic radiation in a predetermined wavelength range and at a given intensity value; a first receiving unit 72 in a measuring branch (MB), which receives the radiation transmitted through the solution at a first wavelength; a second receiving unit 78 in a reference branch (RB), which receives the radiation transmitted through the solution at a second wavelength (Col. 5 lines 15-19); and a control/evaluation unit 18 connected to said first receiving unit 72 and said second receiving unit 78.

Wilcox discloses the use of an additional photodiode 26 in a feedback circuit 18 to control the intensity of the lamp (Col. 4 lines 7-27). Wilcox lacks the intensity values are determined either by the measurement branch (MB) or by the reference branch (RB) in order to control the intensity of the radiation emitted by the lamp. Gersh discloses an ultraviolet absorption hygrometer 10 comprising means for detecting UV radiation transmitted through a sample path in the first and second region is detected by

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a pair of photodiodes 24, 28 and the signal r representing the intensity of radiation in the second region may be used as a reference branch to control the intensity of radiation through a feedback system 38 (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the signal of a branch as suggested by Gersh to control the intensity of radiation emitted by the lamp in view of an improved circuit without the use of an additional photodiode to control the intensity.

With respect to Claim 16, Wilcox discloses said first receiving unit and said second receiving unit are UV-detectors (Col. 1 lines 63-65).

With respect to Claim 17, Gersh discloses the control/evaluation unit effects control in such a way that at least one of the two intensity values lies within the measuring range of said respective receiving unit (Col. 5 lines 35-50).

With respect to Claim 19, Gersh discloses the control/evaluation unit checks whether one of the two intensity values--that is, the intensity value measured in the reference branch (RB) or that in the measuring branch (MB)--is at least as great as a predetermined maximum intensity value (Col. 4 lines 18-33).

With respect to Claim 22, Gersh discloses said lamp is a flash lamp, preferably a xenon flash lamp (Col. 3 lines 35-37).

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Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox et al. (US 5,745,243, hereafter Wilcox) in view of Gersh et al. (US 4,627,284, hereafter Gersh) further in view of Myers (US 4,873,470).

With respect to Claims 23 and 24, Gersh discloses a xenon lamp but omits a first and second capacitors are used to control the intensity of the lamp. Myers discloses a control circuit comprising a plurality of capacitors is provided to vary the intensities of the lamp (Col. 2 lines 3-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include the capacitors as suggested by Myers in view of controlling the intensity of the radiation.

Allowable Subject Matter

Claims 18, 20-21 and 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach or suggest the control/evaluation unit uses the intensity value obtained in the reference branch (RB) in the case of high concentration and uses the intensity value obtained in the measuring branch (MB) in the case of low concentration; in the case that neither the intensity value measured in the reference branch (RB) nor that in the measuring branch (MB) is at least as great as the predetermined maximum intensity value, the control/evaluation unit perform the recited function; the control/evaluation unit furnishes a measured value for the concentration of the substance in the solution, on the basis of the intensity values measured in the

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measuring branch (MB) and the reference branch (RB); and the control/evaluation unit subjects an obtained measured value to a plausibility check, in which the intensity values obtained in the measurement branch (MB) and the reference branch (RB) are checked for predetermined conditions.

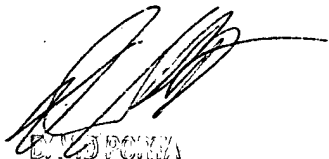
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mindy Vu whose telephone number is 571-272-8539. The examiner can normally be reached on M-F 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mv


DAVE PORTA
SUPERVISOR/TECHNICAL
EXAMINER/SECTION 10